

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13577 of 2004

Between:

Sri Durga Association, Rep.by its President Chennangi Ramulu,
S/o.Yellaiah, Hindu, 62 years, R/o. Gowda Colony, Chinaravuru, Tenali, Guntur
District.

...PETITIONER

AND

1. The District Collector, Guntur, Guntur District.
2. The Revenue Divisional Officer, Tenali, Guntur District.
3. The Mandal Revenue Officer, Chinaravuru, Guntur District.
4. Tenali Municipality, rep by its Commissioner, Tenali, Guntur District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one under Writ of Mandamus, declaring the endorsement bearing Proceedings No.Rc.No.92/80/Superintendent dated 04.11.2002 served on the President of the Petitioner Association on 15.11.2003 which is signed by Respondent No. 3 as illegal and ultra vires to the provisions of Article 14 and 21 of Constitution of India or in the alternative to direct the respondents to assign suitable land in favour of the members of the members of the petitioner Association as expeditiously as possible fixing a time bound

programme.

Counsel for the Petitioner: MR.V.S.R.ANJANEYALU

Counsel for the Respondent Nos.1 to 3: GP FOR REVENUE

Counsel for the Respondent No.4: None appeared.

The Court at the admission stage made the following:

ORDER:

Sri Durga Association, Chinaravuru filed a Writ Petition before this Court being W.P.No.7593 of 1997. They allege that the Revenue officials are not taking steps to conduct survey of land in Survey Nos.80, 200 and 214 of Chinaravuru village for the purpose of demarcating and allotting lands to the members of the petitioner-association. This Court disposed of the Writ Petition on 14.10.1997 directing the Revenue officials to consider the representation made by the President of petitioner-association within three months therein. Thereafter alleging that the same was disobeyed, the petitioner-association filed Contempt Case being C.C.No.1279 of 1999. This Court by an order dated 05.11.2003, disposed of the Contempt Case in the following manner.

Though the writ petition as well as the contempt case is filed by single individual. The petitioner claims that he espouses the cause of the members of the Association. He filed the writ petition seeking a direction as regards survey of plots allotted to the members of the said Association. The writ petition was disposed of directing the respondents to consider the representation and take appropriate steps. From the averments made in the counter affidavits, it is clear that the land, in respect of which pattas are said to have been granted, is earmarked for the benefit of community in the lay out plan Nos.30/80 and 42/81. Time and again the Supreme Court and this Court held that the lands earmarked for open space and community benefit in any lay out cannot be permitted to be used for other purposes. The respondents stated that the very assignments were irregular and illegal and disciplinary proceedings were initiated against the officer who granted the pattas illegally. At any rate, the endorsement dated 04.11.2002 was issued to the petitioner as directed by this Court.

Presumably for that reason, the third respondent herein informed the President of the petitioner-association by way of an endorsement dated 04.11.2002, that the land in Survey Nos.80, 200 and 214 of Chinaravuru is shown as community site, as per the lay out prepared by Vijayawada Tenali Guntur Urban Development Authority (' the Authority' for short) and therefore, it is not possible to hand over the said land to the petitioner-association. Assailing the said order, dated 04.11.2002, the petitioner approached this Court by filing this Writ Petition on 02.08.2004. There is inordinate delay on the part of the petitioner-association in approaching this Court. Be that as it is, the learned Assistant Government Pleader, after getting instructions, submitted that some other land in Chinaravuru was identified and a lay out has already been sent for approval to the Authority. If that be the case, the claim of eighty eight (88) members of the petitioner-association may also be considered for the purpose of allotting house sites provided all the members are eligible, landless and poor. For that purpose, it shall be open to the Mandal Revenue Officer to conduct socio economic survey afresh with regard to members or petitioners within a period of four

months from the date of receipt of a copy of this order. In this Writ petition, the petitioner-association cannot be given any relief directing the respondents to assign suitable land in their favour.

The Writ Petition, with the above observations, is disposed of.

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(V.V.S.RAO, J)

9th August 2004

NOTE: CC by 16.08.2004

B/O

RRB

Copy To:

1. The District Collector, Guntur, Guntur District.
2. The Revenue Divisional Officer, Tenali, Guntur District.
3. The Mandal Revenue Officer, Chinaraavuru, Guntur District.
4. The Commissioner, Tenali Municipality, Tenali, Guntur District.
5. Two CCs to G.P. for G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

6. Two CD copies.